

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.22634 of 2018

Date of Decision:-06.09.2018

Balbir Singh.

.....Petitioner.

Versus

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Ankit Grewal, Advocate for the Petitioner.

JASWANT SINGH, J.

Petitioner-Balbir Singh who is working as Assistant Food and Supplies Officer (AFSO) (Group-B) has preferred the instant writ petition seeking quashing of the transfer order dated 28.08.2018 (P-3) whereby he has been transferred from Amritsar to Tarn Taran.

Learned Counsel for the petitioner has argued that the impugned order dated 28.08.2018 (P-3) is liable to be set aside, as petitioner has been transferred for the 5th time in a short span of 2 years. It is also argued that the present order whereby petitioner along with 70 other employees have been transferred, is a result of wrath being faced by him due to his honesty, because many written complaints have been given against the petitioner by his subordinates, which are false. It is further argued that petitioner, who is left with two years of service and is due to retire in 2020,

dated 23.04.2018, whereby it has been stated that Group-B employees must be stationed for a period of atleast 2 years except in case of Administrative necessity and further that any employee who is about to retire may be given an option regarding his transfer to a station of his choice. Reliance has also been placed upon a judgment passed by a Co-ordinate Bench of this Court in **Rajender Singh Vs. State of Haryana & Ors. 2018(1) SCT 765**. Thus, prayer has been made for setting aside the impugned order dated 28.08.2018 (P-3).

Having scrutinized the arguments and the pleadings, this Court finds no merit in the writ petition, therefore, liable to be dismissed.

A perusal of the impugned order dated 28.08.2018 (P-3) would reveal that along with the petitioner, 70 other officers have been transferred on the ground of Administrative necessity. Although, the argument of learned Counsel for the petitioner regarding this being the 5th transfer in the past two years and, therefore, his transfer is liable to be set aside, is attractive at the first blush. However, it is settled position of law that the Court cannot interfere in the administrative decisions taken by the Department regarding transfers unless it is conclusively shown to be a result of mala-fides or extremely arbitrary. A perusal of the writ petition would show that there is no allegation of mala-fides against any official involved with his transfer nor any of the said officers have been impleaded by name as party in the petition. Not only this, a perusal of the petition would further show that petitioner himself is alleging that the present transfer may be a result of numerous complaints filed against him by his subordinate employees. It is a matter of common knowledge that in order to maintain a peaceful working environment in the office, higher officials always try to

stay clear from the controversy by transferring an employee due to whom there may be some resentment amongst other employees. Consequently, the said decision of transfer comes within the definition of “administrative necessity” and, therefore, such transfer cannot be held to be a punishment *per se*. A government servant holding a transferable post has no vested right to remain posted at one place or the other. Transfer Orders issued by the competent Authority do not violate any of his legal right. An order of transfer is an incidence of government service. Thus, the impugned order does not seem to be either a result of mala-fides or arbitrariness.

Reliance of learned Counsel for the petitioner on judgment of ***Rajender Singh's case (Supra)***, is completely misplaced. A perusal of the same would show that same pertains to transfer policy of Haryana and further, there was mass transfer of drivers and conductors, which resulted into filing of numerous writ petitions before the Court. The State was put to notice to explain the “administrative necessity” for transferring such a large number of employees. However, the State was not able to explain the rationalisation process, due to which such a large number of transfers were effected. Consequently, the State framed a policy for future implementation, whereby no employee could be transferred until and unless he completes two years of service. Apart from that, numerous other conditions were incorporated in the said Policy. It was under these circumstances that the Co-ordinate Bench of this Court had directed the State of Haryana to follow the said policy in its letter and spirit. However, in that case as well, it was held that State could transfer its employees in case of any administrative exigency or on administrative reasons. Thus, it is seen that even in the said case, Court has upheld the discretion of State to

transfer its employees for administrative reasons, by deviating from the Policy. Although, the State has not mentioned as to what is the administrative reasons/necessity for transferring the petitioner in impugned order dated 28.08.2018, however, as observed earlier, from the averments of the petitioner himself, it is clear that the petitioner has been transferred due to resentment from his subordinates. Thus, the State cannot be even put to notice for an action taken in the present case, as this Court has no jurisdiction to entertain such petitions, unless and until there are serious reasons to doubt its bona fides.

In view of the above, finding no merit in the present writ petition the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

September 06, 2018
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>